

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES, et al.,)
Plaintiffs,)
v.) No. 1:23-cv-00108-LMB-JFA
GOOGLE LLC,)
Defendant.)

**PLAINTIFFS' RESPONSE TO MOTION FOR MODIFICATION/CLARIFICATION OF
ACCESS PROCEDURES**

Plaintiffs have and will continue to advocate for the public's right to access these proceedings, including and especially the trial of this matter.

The “general presumption of openness of judicial proceedings,” *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993), “has long been recognized as an indispensable attribute of an Anglo-American trial,” *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569 (1980). Such public access “may be abrogated only in unusual circumstances.” *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 182 (4th Cir. 1988). Consistent with Fourth Circuit Precedent, Plaintiffs also recognize the need for appropriate, narrowly tailored allowances for the redaction or sealing of certain highly sensitive information, *see, e.g., Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000), but believe such allowances should be limited. This transparency is consistent with the public’s “right[] of access to judicial records,” *Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 180 (4th Cir. 1988), and the public’s “qualified right to access civil and criminal proceedings,” *In re Reporters Comm. for Freedom of the Press to Unseal Criminal Prosecution of Assange*, 357 F. Supp. 3d 528, 533 (E.D. Va. 2019).

Plaintiffs therefore largely support the requests of the members of the news media contained in the filings at ECF Nos. 1111-12 (the “Motion”) but defer to the Court on logistical matters concerning the conduct of the trial.

With respect to the public posting of trial exhibits, the Court has already directed the parties to do so “by early the next morning” the day after any exhibit is admitted into evidence. Hr’g Tr. 38:13 (June 7, 2024); *accord In re Associated Press*, 172 F. App’x 1, 4 (4th Cir. 2006) (requiring public posting of trial exhibits “no . . . later than 10:00 am on the day after an exhibit is published”). Plaintiffs do not oppose the entry of an order reflecting this directive as well.

Plaintiffs will use best efforts to publish the materials as quickly as feasible. *See Associated Press*, 172 F. App’x at 4 (ordering public posting “as soon as is practically possible”). Plaintiffs ask for a reasonable amount of additional time to accomplish this task, particularly given the time that the court day is expected to conclude, the importance of minimizing errors with respect to potentially highly sensitive information, the normal press of post-trial day preparation for the upcoming day, the potential need to spend time in the evening on conferrals among the parties for any exigent issues that arise during the trial, and other trial-related matters. Plaintiffs therefore respectfully request that the Court maintain its original deadline of “early the next morning,” with the understanding that Plaintiffs will use reasonable best efforts to publish trial exhibits as far in advance of that deadline as is practically and administratively possible.

Dated: August 7, 2024

Respectfully submitted,

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